

ORDINANCE NO. 2008 - 020

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING THE 1989 COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 89-17, AS AMENDED; AMENDING THE FUTURE LAND USE ATLAS (FLUA) FOR THE **MILITARY/HYPOLUXO COMMERCIAL** (LGA 2008-004) PRIVATELY INITIATED AMENDMENT, MODIFYING PAGE 82 OF THE FLUA BY CHANGING THE FUTURE LAND USE DESIGNATION FOR APPROXIMATELY 24.04 ACRES OF LAND, GENERALLY LOCATED ON THE NORTHEAST CORNER OF MILITARY TRAIL AND HYPOLUXO ROAD, FROM MULTIPLE LAND USE WITH AN UNDERLYING 5 UNITS PER ACRE (MLU/5) ON 19.18 ACRES AND MEDIUM RESIDENTIAL, 5 UNITS PER ACRE (MR-5) ON 4.86 ACRES TO COMMERCIAL HIGH WITH AN UNDERLYING 5 UNITS PER ACRE (CH/5), SUBJECT TO CONDITIONS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE 1989 COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 31, 1989, the Palm Beach County Board of County Commissioners adopted the 1989 Comprehensive Plan by Ordinance No. 89-17;

WHEREAS, the Palm Beach County Board of County Commissioners amends the 1989 Comprehensive Plan as provided by Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners have initiated amendments to several elements of the Comprehensive Plan in order to promote the health, safety and welfare of the public of Palm Beach County; and

WHEREAS, the Palm Beach County Local Planning Agency conducted its public hearings on February 8, February 22, March 28, and April 11, 2008 to review the proposed amendments to the Palm Beach County Comprehensive Plan and made recommendations regarding the proposed amendments to the Palm Beach County Board of County Commissioners pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners, as the governing body of Palm Beach County, conducted a public hearing pursuant to Chapter 163, Part II, Florida Statutes, on April 28, 2008 to review the recommendations of the Local Planning Agency, whereupon the Board of County Commissioners authorized transmittal of proposed amendments to the Department of Community Affairs for review and comment pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, Palm Beach County received the Department of Community Affairs "Objections, Recommendations, and Comments Report," dated

July 11, 2008 which was the Department's written review of the proposed Comprehensive Plan amendments; and

WHEREAS, the written comments submitted by the Department of Community Affairs contained an objection to the amendment contained in this ordinance;

WHEREAS, on August 21, 2008 the Palm Beach County Board of County Commissioners held a public hearing to review the written comments submitted by the Department of Community Affairs and to consider adoption of the amendments; and

WHEREAS, the Palm Beach County Board of County Commissioners has determined that the amendment satisfies the concerns addressed in the Department of Community Affairs' "Objections, Recommendations and Comments Report" and comply with all requirements of the Local Government Comprehensive Planning and Land Development Regulations Act.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Part I. Amendments to the Future Land Use Atlas of the Future Land Use Element of the 1989 Comprehensive Plan

The following amendment to the Future Land Use Atlas is hereby adopted and attached to this Ordinance as Exhibit 1 :

1. Future Land Use Atlas page 82 is amended as follows:

Application: Military/Hypoluxo Commercial (LGA 2008-004),

Amendment: From Multiple Land Use with an underlying 5 units per acre (MLU/5) on 19.18 acres and Medium Residential, 5 units per acre (MR-5) on 4.86 acres to Commercial High with an underlying 5 units per acre (CH/5).

Location: on the northeast corner of Military Trail and Hypoluxo Road,

Size: Approximately 24.04 acres,

Conditions: This site is subject to the following conditions:

1. The subject site shall be limited to maximum of 366,200 square feet of commercial development;

2. The subject site shall be developed with a minimum of 30 Live / Work and/or residential units on site;
3. A master plan shall be provided which shows vehicular/pedestrian circulation throughout the subject site with a true cross access easement and a minimum of two (2) vehicular and two (2) pedestrian connections to the adjacent site to the north. The master plan requires approval by the Planning Division to ensure it demonstrates superior design and a functional integration of uses with sidewalks, shade trees and streetlights.
4. The master plan and the final site plan for this property shall clearly indicate cross access easements with the proposed commercial development to the north (Application LGA 2008-008) and a shared access road to Military Trail along the property line separating the two developments, at the general locations shown on the master plan.

Part II. Repeal of Laws in Conflict

All local laws and ordinances applying to the unincorporated area of Palm Beach County in conflict with any provision of this ordinance are hereby repealed to the extent of such conflict.

Part III. Severability

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

Part IV. Inclusion in the 1989 Comprehensive Plan

The provision of this Ordinance shall become and be made a part of the 1989 Palm Beach County Comprehensive Plan. The Sections of the Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

Part V. Effective Date

The effective date of this plan amendment shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the amendment in compliance in

accordance with Section 163.3184(1)(b), Florida Statutes, whichever is applicable. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team. An adopted amendment whose effective date is delayed by law shall be considered part of the adopted plan until determined to be not in compliance by final order of the Administration Commission. Then, it shall no longer be part of the adopted plan unless the local government adopts a resolution affirming its effectiveness in the manner provided by law.

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County, on the 21st day of August, 2008.

ATTEST:
SHARON R. BOON, CLERK
& COMPTROLLER

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY COMMISSIONERS

By Judith Crocker
Deputy Clerk

By Addie L. Greene
Addie L. Greene, Chairperson

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

[Signature]
COUNTY ATTORNEY

Filed with the Department of State on the 28th day of
August, 2008.

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EXHIBIT 1

A. Future Land Use Atlas page 82 is amended as follows:

Amendment No.: Military Trail / Hypoluxo Road Commercial (LGA 2008-0004)

FLUA Page No.: 82

Amendment: From Multiple Land Use with an underlying 5 units per acre (MLU/5) on 19.18 acres and Medium Residential, 5 units per acre (MR-5) on 4.86 acres to Commercial High with an underlying 5 units per acre (CH/5).

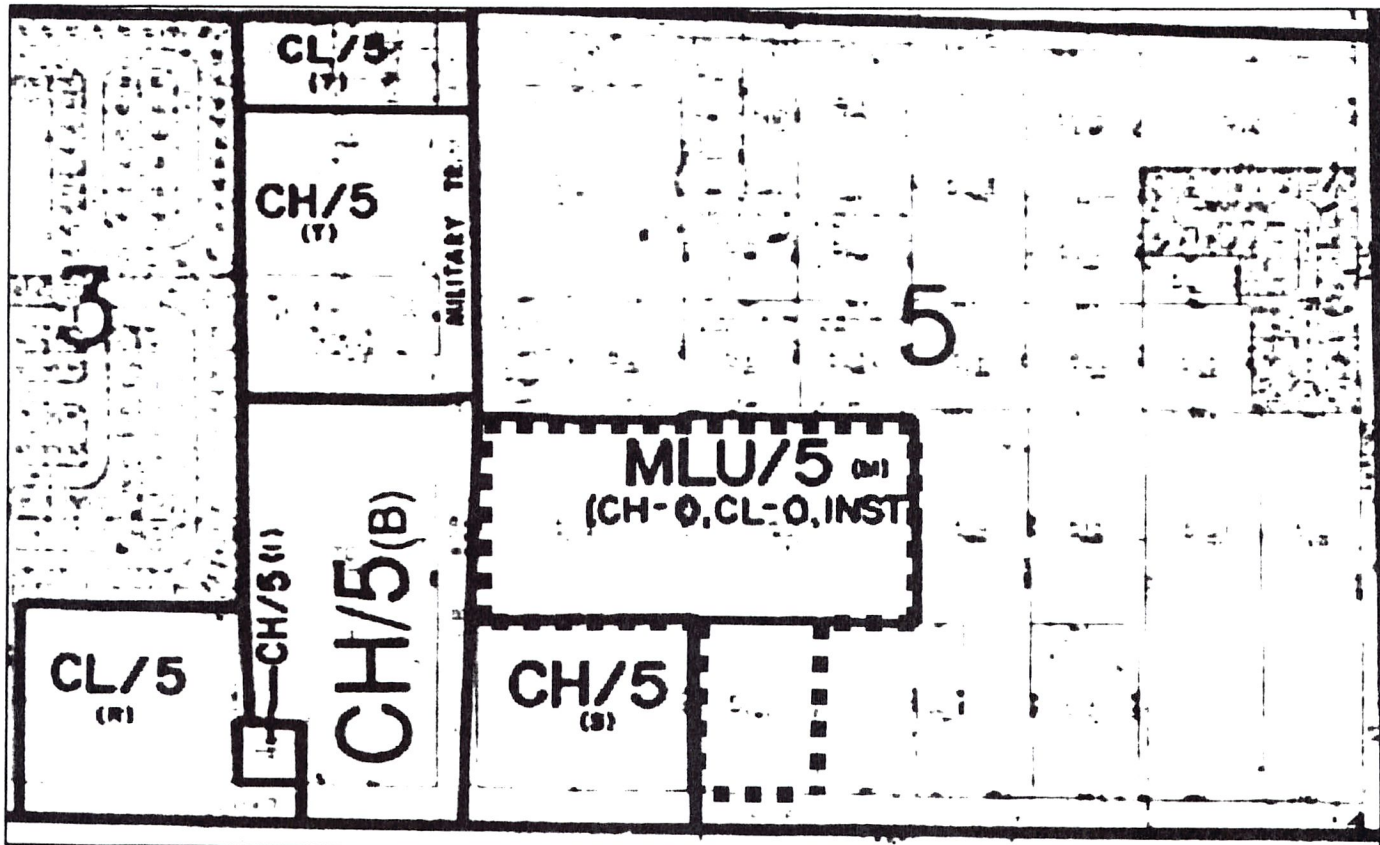
Location: Northeast corner of Military Trail and Hypoluxo Road

Size: Approximately 24.04 acres

Property No.: Parcel A: 00-42-45-01-00-000-5030 (19.18 acres)
Parcel B: 00-42-45-01-00-000-5071 (4.86 acres)

Conditions:

1. The subject site shall be limited to maximum of 366,200 square feet of commercial development;
2. The subject site shall be developed with a minimum of 30 Live / Work and/or residential units on site;
3. A master plan shall be provided which shows vehicular/pedestrian circulation throughout the subject site with a true cross access easement and a minimum of two (2) vehicular and two (2) pedestrian connections to the adjacent site to the north. The master plan requires approval by the Planning Division to ensure it demonstrates superior design and a functional integration of uses with sidewalks, shade trees and streetlights.
4. The master plan and the final site plan for this property shall clearly indicate cross access easements with the proposed commercial development to the north (Application LGA 2008-008) and a shared access road to Military Trail along the property line separating the two developments, at the general locations shown on the master plan.
5. A portion of the site (approx. 3.04 acres) along the eastern property line shall be restricted to water retention and landscaping only.



Legal Description

THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER, LESS AND EXCEPT RIGHT-OF-WAY FOR STATE ROAD 809 (MILITARY TRAIL) AND ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 6074, PAGE 1822, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND THE NORTH 40 FEET, AND THE NORTHEAST ONE QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER, LESS THE NORTH 30 FEET, SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

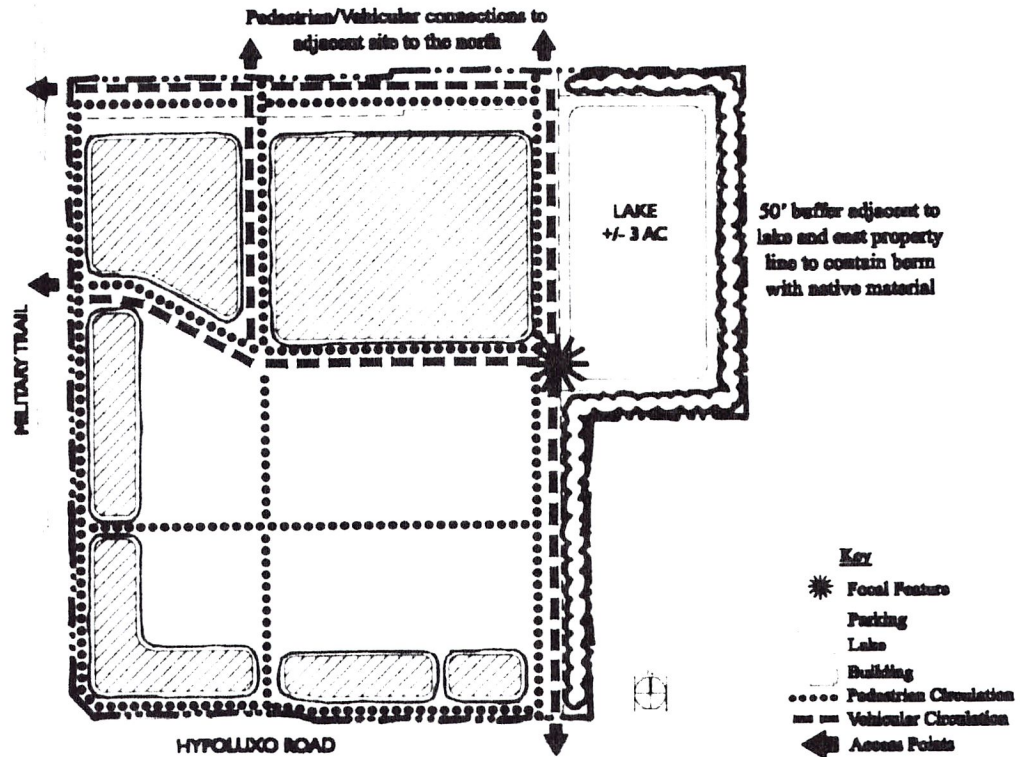
TOGETHER WITH

THE WEST 370 FEET OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT RIGHT-OF-WAY FOR HYPOLUXO ROAD.

Portion of the Subject Site to cross-hatched to be restricted to water retention and landscaping only (CHX/5): A PORTION OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE -QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST ONE -QUARTER OF SAID SECTION 1; THENCE NORTH 89° 40'51" EAST, ALONG THE SOUTH LINE OF SAID SECTION 1, A DISTANCE OF 1242.64 FEET; THENCE NORTH 00° 19'09" WEST, A DISTANCE OF 755.45 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89° 43'18" WEST, A DISTANCE OF 207.99 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE TO THE RIGHT; THENCE WESTERLY AND NORTHERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90° 00'55", A DISTANCE OF 39.28 FEET TO THE POINT QF TANGENCY; THENCE NORTH 00° 15'47" WEST, A DISTANCE OF 465.60 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE TO THE RIGHT; THENCE NORTHERLY AND EASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90° 01'32", A DISTANCE OF 39.28 FEET TO THE POINT OF TANGENCY; THENCE NORTH 89°45'46" EAST, A DISTANCE OF 207.43 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE TO THE RIGHT; THENCE EASTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 89° 54'19", A DISTANCE OF 39.23 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 00° 19'56" EAST, A DISTANCE OF 465.45 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE TO THE RIGHT; THENCE SOUTHERLY AND WESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°03'14", A DISTANCE OF 39.29 FEET TO THE POINT OF BEGINNING. COUNTY, FLORIDA AND CONTAIN 3.038 ACRES,

Master Plan

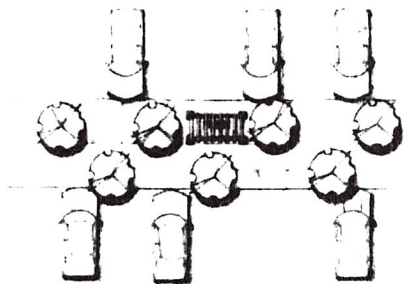
Military Trail and Hypoluxo Master Plan



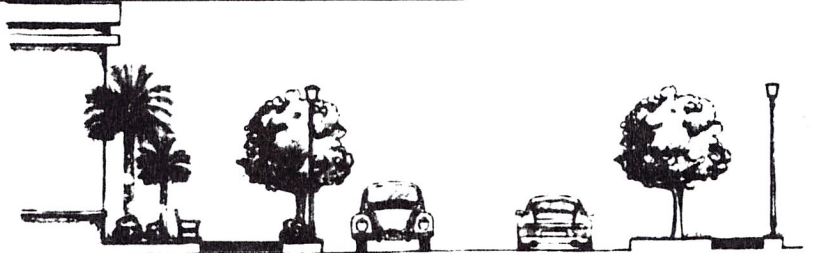
Conditions

1. The subject site of LGA (2008-0004) shall be limited to maximum of 366,200 square feet (Necessary for consistency with Policy 3.5-d).
2. A minimum of 30 Live/ Work and/ or residential units, which shall be provided on the subject site.
3. A master plan shall be provided which shows vehicular/ pedestrian circulation throughout the subject site with a true cross access easement and a minimum of two (2) vehicular and two (2) pedestrian connections to the adjacent site to the north. The master plan shall be presented to the Planning Division for review and should demonstrate a functional mix of uses.
4. The master plan and final site plan for this property (Application LGA 2008-004) shall clearly indicate cross access easements with the proposed residential development to the north (Application LGA 2008-008) and a shared access road to Military Trail along the property line separating the two developments, at the general locations shown on the master plan.

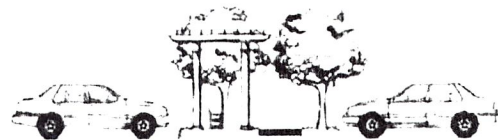
Typical Pedestrian Walkway Through Parking Lot, Plan View



Typical Cross Section of Main Internal Roads



Pedestrian Walkway Section



STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk and Comptroller
certify this to be a true and correct copy of the original
filed in my office on August 21, 2008
dated at West Palm Beach, Florida 9/3/08
By: Diane Brown COUNTY CLERK
Deputy Clerk FLORIDA